

Honorable District Judge Marsha J. Pechman

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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION**

VERONICA DURPHEY,

Plaintiff,

v.

EXPERIAN INFORMATION
SOLUTIONS, INC.; TRANS UNION LLC.;
EQUIFAX INFORMATION SERVICES,
LLC; and LEXISNEXIS RISK
SOLUTIONS, INC.

Defendants.

Case No.: 2:24-cv-00468-MJP

STIPULATED PROTECTIVE ORDER

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective

STIPULATED PROTECTIVE ORDER
CASE NO.: 2:24-cv-00468-MJP

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Order. The parties acknowledge that this agreement is consistent with LCR 26(c). It does not confer blanket protection on all disclosures or responses to discovery, the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles, and it does not presumptively entitle parties to file confidential information under seal.

2. “CONFIDENTIAL” MATERIAL

“Confidential” material shall include the following documents and tangible things produced or otherwise exchanged:

- Defendants’ policies and procedures for verifying consumer identities and information;
- Defendants’ policies and procedures for collecting and reporting deceased notations in a consumer’s credit file;
- Defendants’ policies and procedures for ensuring maximum possible accuracy of consumer information as required by 15 U.S.C. §1681e(b);
- The actions taken by Defendants in response to Plaintiff’s disputes;
- All communications between Plaintiff and Defendants discussing confidential materials;
- All communications between the Defendants in this matter discussing confidential materials;
- Defendants’ maintenance, preparation, and publication of Plaintiff’s consumer reports and consumer information;

- Defendants' matching procedures and matching logic;
- Defendants' access to the SSA LA-DMF information;
- Defendants' sources of deceased information regarding Plaintiff and how Defendants verified said information and sources;
- Any vendors or third parties used by Defendants in creating Plaintiff's consumer reports, including contractual agreements between third parties and Defendants;
- Documents containing Plaintiff's social security number;
- Third-party discovery as necessary (including of the third parties that received Plaintiff's consumer credit information and Plaintiff's witnesses for establishing damages)

3. SCOPE

The protections conferred by this agreement cover not only confidential material (as defined above), but also (1) any information copied or extracted from confidential material; (2) all copies, excerpts, summaries, or compilations of confidential material; and (3) any testimony, conversations, or presentations by parties or their counsel that might reveal confidential material.

However, the protections conferred by this agreement do not cover information that is in the public domain or becomes part of the public domain through trial or otherwise.

1 4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

2 4.1 Basic Principles. A receiving party may use confidential material that is
 3 disclosed or produced by another party or by a non-party in connection with this case only
 4 for prosecuting, defending, or attempting to settle this litigation. Confidential material may
 5 be disclosed only to the categories of persons and under the conditions described in this
 6 agreement. Confidential material must be stored and maintained by a receiving party at a
 7 location and in a secure manner that ensures that access is limited to the persons authorized
 8 under this agreement.

9 4.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise
 10 ordered by the court or permitted in writing by the designating party, a receiving party may
 11 disclose any confidential material only to:

- 12 (a) the parties;
- 13 (b) the receiving party’s counsel of record in this action, as well as
 14 employees of counsel to whom it is reasonably necessary to disclose the information for
 15 this litigation;
- 16 (c) the officers, directors, and employees (including in house counsel) of
 17 the receiving party to whom disclosure is reasonably necessary for this litigation, unless a
 18 particular document or material produced is for Attorney’s Eyes Only and is so designated;
- 19 (d) experts and consultants to whom disclosure is reasonably necessary
 20 for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound”
 21 (Exhibit A);

(e) the court, court personnel, and court reporters and their staff;

(f) copy or imaging services retained by counsel to assist in the duplication of confidential material, provided that counsel for the party retaining the copy or imaging service instructs the service not to disclose any confidential material to third parties and to immediately return all originals and copies of any confidential material;

(g) during their depositions, witnesses in the action to whom disclosure is reasonably necessary and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the designating party or ordered by the court. Pages of transcribed deposition testimony or exhibits to depositions that reveal confidential material must be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this agreement;

(h) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information.

4.3 Disclosure of “CONFIDENTIAL – ATTORNEYS EYES ONLY” Material or items. If a Producing Party believes in good faith that, despite the provisions of this

Protective Order there is a substantial risk of identifiable harm to the Producing Party if particular documents it designates as “Confidential” are disclosed to all other parties or non-parties to this action, the Producing Party may designate those particular documents as “Confidential—Attorneys’ Eyes Only.” Except with the prior written consent of the individual or entity designating a document or portions of a document as “CONFIDENTIAL – ATTORNEYS EYES ONLY,” or pursuant to prior Order after

1 notice, any document, transcript or pleading given “CONFIDENTIAL – ATTORNEYS
2 EYES ONLY” treatment under this Order, and any information contained in, or derived
3 from any such materials (including but not limited to, all deposition testimony that refers
4 to, reflects, or otherwise discusses any information designated “CONFIDENTIAL –
5 ATTORNEYS EYES ONLY” hereunder) may not be disclosed other than in accordance
6 with this Order and may not be disclosed to any person other than:

7 (a) A party’s retained outside counsel of record in this action, as well as
8 employees of said outside counsel to whom it is reasonably necessary to disclose the
9 information for this litigation and who have signed the “Acknowledgement and Agreement
10 to be Bound” (Exhibit A);

11 (b) Experts specifically retained as consultants or expert witnesses in connection
12 with this litigation who have signed the “Acknowledgement and Agreement to be Bound”
13 (Exhibit A);

14 (c) The Court and its personnel;

15 (d) Court reporters, their staffs, and professional vendors to whom disclosure is
16 reasonably necessary for this litigation and who have signed the “Acknowledgement and
17 Agreement to be Bound” (Exhibit A);

18 (e) Any mediator appointed by the court or jointly selected by the parties;

19 (f) the Plaintiff, who may view materials designated Attorneys Eyes Only as
20 reasonably necessary for this litigation but must obtain prior consent from the designating
21 party to receive copies or otherwise retain such material.

1 (g) The author or recipient of the document (not including a person who received
2 the document in the course of the litigation);

3 (h) Independent providers of document reproduction, electronic discovery, or
4 other litigation services retained or employed specifically in connection with this litigation;
5 and

6 (i) Other persons only upon consent of the producing party and on such
7 conditions as the parties may agree.

8 4.4 Filing Confidential Material. Before filing confidential material or
9 discussing or referencing such material in court filings, the filing party shall confer with
10 the designating party, in accordance with Local Civil Rule 5(g)(3)(A), to determine
11 whether the designating party will remove the confidential designation, whether the
12 document can be redacted, or whether a motion to seal or stipulation and proposed order is
13 warranted. During the meet and confer process, the designating party must identify the
14 basis for sealing the specific confidential information at issue, and the filing party shall
15 include this basis in its motion to seal, along with any objection to sealing the information
16 at issue. Local Civil Rule 5(g) sets forth the procedures that must be followed and the
17 standards that will be applied when a party seeks permission from the court to file material
18 under seal. A party who seeks to maintain the confidentiality of its information must satisfy
19 the requirements of Local Civil Rule 5(g)(3)(B), even if it is not the party filing the motion
20 to seal. Failure to satisfy this requirement will result in the motion to seal being denied, in
21 accordance with the strong presumption of public access to the Court's files.

1 5. DESIGNATING PROTECTED MATERIAL

2 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each
3 party or non-party that designates information or items for protection under this agreement
4 must take care to limit any such designation to specific material that qualifies under the
5 appropriate standards. The designating party must designate for protection only those parts
6 of material, documents, items, or oral or written communications that qualify, so that other
7 portions of the material, documents, items, or communications for which protection is not
8 warranted are not swept unjustifiably within the ambit of this agreement.

9 Mass, indiscriminate, or routinized designations are prohibited. Designations that
10 are shown to be clearly unjustified or that have been made for an improper purpose (*e.g.*,
11 to unnecessarily encumber or delay the case development process or to impose unnecessary
12 expenses and burdens on other parties) expose the designating party to sanctions.

13 If it comes to a designating party's attention that information or items that it
14 designated for protection do not qualify for protection, the designating party must promptly
15 notify all other parties that it is withdrawing the mistaken designation.

16 5.2 Manner and Timing of Designations. Except as otherwise provided in this
17 agreement (see, *e.g.*, second paragraph of section 5.2(b) below), or as otherwise stipulated
18 or ordered, disclosure or discovery material that qualifies for protection under this
19 agreement must be clearly so designated before or when the material is disclosed or
20 produced.

(a) Information in documentary form: (e.g., paper or electronic documents and deposition exhibits, but excluding transcripts of depositions or other pretrial or trial proceedings), the designating party must affix the word “CONFIDENTIAL” or “CONFIDENTIAL - ATTORNEYS EYES ONLY” to each page that contains confidential material. If only a portion or portions of the material on a page qualifies for protection, the producing party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

(b) Testimony given in deposition or in other pretrial proceedings: the parties and any participating non-parties may designate deposition testimony as “CONFIDENTIAL” after the deposition, by notifying the parties and those who were present at the deposition within 21 days after the deposition transcript becomes available, unless otherwise agree.

(c) Other tangible items: the producing party must affix in a prominent place on the exterior of the container or containers in which the information or item is stored the word “CONFIDENTIAL” or “CONFIDENTIAL – ATTORNEYS EYES ONLY.” If only a portion or portions of the information or item warrant protection, the producing party, to the extent practicable, shall identify the protected portion(s).

5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the designating party’s right to secure protection under this agreement for such material. Upon timely

1 correction of a designation, the receiving party must make reasonable efforts to ensure that
2 the material is treated in accordance with the provisions of this agreement.

3 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

4 6.1 Timing of Challenges. Any party or non-party may challenge a designation
5 of confidentiality at any time. Unless a prompt challenge to a designating party's
6 confidentiality designation is necessary to avoid foreseeable, substantial unfairness,
7 unnecessary economic burdens, or a significant disruption or delay of the litigation, a party
8 does not waive its right to challenge a confidentiality designation by electing not to mount
9 a challenge promptly after the original designation is disclosed.

10 6.2 Meet and Confer. The parties must make every attempt to resolve any dispute
11 regarding confidential designations without court involvement. Any motion regarding
12 confidential designations or for a protective order must include a certification, in the
13 motion or in a declaration or affidavit, that the movant has engaged in a good faith meet
14 and confer conference with other affected parties in an effort to resolve the dispute without
15 court action. The certification must list the date, manner, and participants to the conference.
16 A good faith effort to confer requires a face-to-face meeting or a telephone conference.

17 6.3 Judicial Intervention. If the parties cannot resolve a challenge without court
18 intervention, the designating party may file and serve a motion to retain confidentiality
19 under Local Civil Rule 7 (and in compliance with Local Civil Rule 5(g), if applicable). The
20 burden of persuasion in any such motion shall be on the designating party. Frivolous
21 challenges, and those made for an improper purpose (*e.g.*, to harass or impose unnecessary

expenses and burdens on other parties) may expose the challenging party to sanctions. All parties shall continue to maintain the material in question as confidential until the court rules on the challenge.

7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

If a party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this action as “CONFIDENTIAL” or “CONFIDENTIAL – ATTORNEYS EYES ONLY,” that party must:

(a) promptly notify the designating party in writing and include a copy of the subpoena or court order;

(b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this agreement. Such notification shall include a copy of this agreement; and

(c) cooperate with respect to all reasonable procedures sought to be pursued by the designating party whose confidential material may be affected.

8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a receiving party learns that, by inadvertence or otherwise, it has disclosed confidential material to any person or in any circumstance not authorized under this agreement, the receiving party must immediately (a) notify in writing the designating party

of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the protected material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this agreement, and (d) request that such person or persons execute the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a producing party gives notice to receiving parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the receiving parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order or agreement that provides for production without prior privilege review. The parties agree to the entry of a non-waiver order under Fed. R. Evid. 502(d) as set forth herein.

10. NON-TERMINATION AND RETURN OF DOCUMENTS

Within 60 days after the termination of this action, including all appeals, each receiving party must return or destroy all confidential material to the producing party, including all copies, extracts and summaries thereof. Alternatively, the parties may agree upon appropriate methods of destruction.

Notwithstanding this provision, counsel are entitled to retain one archival copy of all documents filed with the court, trial, deposition, and hearing transcripts,

1 correspondence, deposition and trial exhibits, expert reports, attorney work product, and
2 consultant and expert work product, even if such materials contain confidential material.
3 Such retained materials remain subject to the use restriction in section 4.1 hereof.

4 The confidentiality obligations imposed by this agreement shall remain in effect
5 until a designating party agrees otherwise in writing or a court orders otherwise.
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22 STIPULATED PROTECTIVE ORDER
23 CASE NO.: 2:24-cv-00468-MJP

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IT IS SO STIPULATED THROUGH COUNSEL OF RECORD.

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STIPULATED PROTECTIVE ORDER

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PURSUANT TO STIPULATION, IT IS SO ORDERED

IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the production of any documents, electronically stored information (ESI) or information, whether inadvertent or otherwise, in this proceeding shall not, for the purposes of this proceeding or any other federal or state proceeding, constitute a waiver by the producing party of any privilege applicable to those documents, including the attorney-client privilege, attorney work-product protection, or any other privilege or protection recognized by law. This Order shall be interpreted to provide the maximum protection allowed by Fed. R. Evid. 502(d). The provisions of Fed. R. Evid. 502(b) do not apply. Nothing contained herein is intended to or shall serve to limit a party's right to conduct a review of documents, ESI or information (including metadata) for relevance, responsiveness and/or segregation of privileged and/or protected information before production. Information produced in discovery that is protected as privileged or work product shall be immediately returned to the producing party.

DATED: July 23, 2024



MARSHA J. PECHMAN
United States Senior District Judge

STIPULATED PROTECTIVE ORDER
CASE NO.: 2:24-cv-00468-MJP

Consumer Attorneys
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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
_____ [print or type full address], declare under
penalty of perjury that I have read in its entirety and understand the Stipulated Protective
Order that was issued by the United States District Court for the Western District of
Washington on [date] in the case of Veronica Durphey v. Experian Information Solutions,
Inc.; et al, Case No.: 2:24-cv-00468-GJL. I agree to comply with and to be bound by all
the terms of this Stipulated Protective Order and I understand and acknowledge that failure
to so comply could expose me to sanctions and punishment in the nature of contempt. I
solemnly promise that I will not disclose in any manner any information or item that is
subject to this Stipulated Protective Order to any person or entity except in strict
compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for
the Western District of Washington for the purpose of enforcing the terms of this Stipulated
Protective Order, even if such enforcement proceedings occur after termination of this
action.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____

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